

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Review of the)	
Emergency Alert System)	EB Docket No. 04-296
)	

COMMENTS OF RADIOSHACK CORPORATION

Respectfully submitted

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I. Background and Introduction

RadioShack, by its attorneys, hereby submits Comments in response to the Commission's *Further Notice of Proposed Rulemaking* requesting additional information regarding the actions the Commission and other agencies should take to develop a national public alert and warning system¹. RadioShack is a manufacturer and retailer of a broad range of consumer electronics products that include cell phones, pagers, radios, televisions and weather radios. With over 7,000 locations nationwide, a RadioShack store can be found within five minutes of where 94 percent of Americans live or work. As an experienced retailer and manufacturer of a range of consumer electronics products, RadioShack is likely to sell whatever warning devices are developed and marketable. And as an early manufacturer and retailer of weather radios, now called "weather and all-hazard radios", the company has a detailed understanding of the National Oceanic and

¹ In 2004, the Commission issued a *Notice of Proposed Rulemaking* (NPRM) seeking comment on the efficacy of the Emergency Alert System (EAS) as a mechanism for warning the American public of an emergency and whether or not improvements to EAS are necessary. *See Review of the Emergency Alert System*, Notice of Proposed Rulemaking, 19 FCC Rcd 15775 (2004). RadioShack filed Comments and a Reply in that proceeding which remain applicable in this proceeding and are enclosed with these new Comments.

Atmospheric Administration systems' (NOAA System) current role in warning the public and saving lives.²

On November 10, 2005, the Commission released its *First Report and Order* (Order) and *Further Notice of Proposed Rulemaking* (FNPRM) in ET Docket No. 04-296. In its Order, the Commission imposed EAS requirements on digital television, digital audio broadcast, digital cable, direct broadcast satellite and satellite digital audio radio licensees.³ In its FNPRM, the Commission sought further guidance “on what actions the Commission should take to help expedite the development of a more comprehensive [emergency alert] system.”⁴

RadioShack believes that the Commission should place greater reliance on the information and insight provided by several Commenters in the NPRM proceeding, especially the comments of the parties having experience with existing public warning systems.⁵ RadioShack is concerned that the Commission’s FNPRM fails to adequately account for the overall structure of existing national warning systems. Specifically, it is essential to distinguish between a primary warning system – like the NOAA System – that receives, compiles and disseminates warning information, and secondary systems – like the EAS and a variety of devices that serve as “endpoint” delivery mechanisms by

² The NOAA System consists of multiple delivery platforms for the distribution of emergency warnings. Included in NOAA System is NOAA Weather Radio All-Hazards (NWR), which delivers emergency voice warnings, and NOAA Weather Wire Service (NWWS), which collects and delivers emergency text warnings. See FNPRM Comments of Kenneth Putkovich at 4. See generally <http://www.nws.noaa.gov/nwsw/index.html> (providing background information regarding NWWS); <http://www.nws.noaa.gov/nwr/> (consisting of education material with regard to NWR).

³ See *Review of the Emergency Alert System*, First Report and Order and Further Notice of Proposed Rulemaking, ET Docket No. 04-296, FCC 05-191 (rel. Nov. 10, 2005).

⁴ *Id.* at ¶ 61.

⁵ See, e.g., NPRM Comments of Kenneth Putkovich; NPRM Comments of the Consumer Electronics Association (CEA); NPRM Comments of the Rural Cellular Association (RCA); NPRM Comments of RadioShack; NPRM Comments of Midland Radio. See also FNPRM Comments of John Merrell; FNPRM Comments of Kenneth Putkovich; FNPRM Comments of CEA.

receiving and distributing information to the public.⁶ Secondary systems, like the EAS (whether by broadcast, satellite or cable), or devices, like alert radios, cell phones, the Internet, etc., are, as one Commenter said, “information conduits.”⁷

The Commission’s FNPRM appears to focus almost exclusively on the expansion of these “information conduits.” While improving endpoint delivery systems, like the EAS, is certainly useful, an examination of how to do this must take account of the need to ensure full integration with the NOAA System. As already demonstrated by several Commenters, the current NOAA System will continue to provide the backbone for a national warning system.⁸

II. Government Efforts to Develop Digital Warning Systems and the Role of the Federal Communications Commission

The Commission acknowledges in its Order and FNPRM that it is one of three federal agencies with responsibility over aspects of a national warning system. The Federal Emergency Management Agency (FEMA) within the Department of Homeland Security (DHS) administers the EAS jointly with the Commission. And NOAA/NWS administers the National Weather Radio All-Hazards System. As the Commission notes, these agencies are already involved in a number of initiatives to expand the nation’s warning capabilities and the Commission seeks guidance regarding its role in these efforts.⁹

⁶ FNPRM Comments of Kenneth Putkovich at 4-5.

⁷ NPRM Comments of National Center for Missing & Exploited Children (NCMEC) at 11.

⁸ These comments do not revisit all of the merits of the NOAA System, but refer the Commission to RadioShack’s prior NPRM Comments outlining the NOAA System’s capabilities, as well as the FNPRM Comments of John Merrell (noting the greater coverage capabilities of NOAA NWS versus EAS); FNPRM Comments of Kenneth Putkovich (proposing that NOAA NWS serve as the backbone for a National Emergency Warning System); NPRM Comments of Rural Cellular Association (stating that more effective use of the network of radio stations operated by the NWS is a desirable and efficient way to improve the EAS system).

⁹ FNPRM at ¶ 71.

There are a number of initiatives underway that are intended to improve public warnings. The Commission refers to the recent Congressional Research Service (CRS) report which lists a number of current activities, and Mr. Putkovich's Comments also provide a detailed summary of these initiatives.¹⁰ RadioShack itself has observed and participated in the expansion of the NOAA System since early in 2002. Since that time, RadioShack has witnessed:

- The agreement between DHS and NOAA to allow DHS access to disseminate its warnings over the NOAA NWS system.
- The appropriation of funds for the development of the HazCollect capabilities to upgrade state and local access to the NOAA NWS system.¹¹
- The appropriation of funds for the distribution of NOAA weather radios into all public schools -- RadioShack was one of the first companies to participate in the initial pilot program.¹²
- The approval of legislation by a Senate Committee to further develop a national warning system, including a provision that would place a new office responsible for the coordination and dissemination of alerts within NOAA. A national warning system to be funded in the Budget Reconciliation legislation pending final action in the House and the President's signature.¹³
- The redevelopment through efforts of the Consumer Electronic Association of a next generation weather and all-hazards radio into a Public Alert™ weather and all-hazards alert product.

These significant steps have been taking place while additional efforts are occurring to develop an Integrated Public Alert and Warning System (IPAWS) and Common Alert Protocol (CAP), both of which can be integrated into the NOAA System. In addition to these efforts, a number of other efforts to explore new technologies are

¹⁰ FNPRM Comments of Kenneth Putkovich at 18.

¹¹ \$5.5 million was appropriated in the FY 2004 Department of Commerce Appropriations bill. *See* Pub. Law No. 108-199, Conf. Rept. 108-401.

¹² \$10 million was appropriated in the FY 2005 Homeland Security Appropriations bill for public alert and warning programs. The Conference Report specifically mentions the use of these funds for the distribution of NOAA weather radios into schools. \$500,000 were provided for this purpose in FY2005. *See* Pub. Law No. 108-334, Conf. Rept. 108-774. \$5 million more was appropriated in the Homeland Security Appropriations bill for FY2006 for the purpose of distributing NOAA weather radios into all public schools. *See* Pub. Law No. 109-90, Conf. Rept. 109-241.

¹³ *See* Warning, Alert, Response Network Act, S. 1753, 109th Cong. (2005); Deficit Reduction Act, S. 1932, 109th Cong. § 3010 (2005).

ongoing, including the Commission's FNPRM. It is essential that all of the relevant agencies at the federal level (and state and local levels) coordinate these efforts to ensure that the nation's warning systems are expanded in an integrated fashion.

It is also important that the Commission recognize that its jurisdiction is limited to one component of the nation's warning capabilities.¹⁴ While the EAS and NOAA/NWS systems work in concert, in practice the EAS acts simply as an information conduit through which warnings are distributed. It is the NWS that monitors, compiles and originates at least 80 percent of all of the warnings distributed over the EAS system.¹⁵ For this reason, RadioShack and other commenters have urged the Commission to coordinate its efforts to expand EAS with both NOAA/NWS and DHS/FEMA.¹⁶

III. System Architecture, Message Dissemination, Common Protocols and Dissemination to Particular Technologies

With regard to system architecture and related issues, RadioShack urges the Commission to consider carefully comments filed by Mr. Putkovich, Mr. Merrell and CEA.¹⁷ Mr. Putkovich's most recent Comments provide extensive and detailed information on the improvements already made and planned in the NOAA System, which he refers to as a National Emergency Warning System.¹⁸ While the Commission is questioning how new devices and technologies might receive alerts, or whether a CAP is necessary, NOAA, DHS and private sector parties have already explored these questions and are implementing solutions. As Mr. Putkovich indicates in his Comments, the

¹⁴ See *supra* text accompanying notes 4-6.

¹⁵ FNPRM at ¶ 7. Some sources indicate that the percentage may be closer to 95 percent. See NPRM Comments of Midland Radio at n. 4; FNPRM Comments of John Merrell at 5.

¹⁶ See FNPRM Comments of Putkovich; NPRM Comments of Midland Radio; NPRM Comments of CEA; NPRM Comments of RCA; NPRM Comments of RadioShack at 12-14.

¹⁷ See NPRM Comments of Putkovich; NPRM Comments of CEA at 4-7; FNPRM Comments of Putkovich at 6-11; FNPRM Comments of Merrell at 4-12; FNPRM Comments of CEA at 6-9.

¹⁸ See FNPRM Comments of Putkovich at 6-11.

Commission needs to consider suggestions for expansion of the EAS in the context of the improvements already being made to the NOAA System.¹⁹ It is possible that some of the Commission's suggestions for expansion of the EAS may be unnecessary or duplicative in light of developments that are planned or that have already occurred.

IV. Performance Standards

The Commission questions whether performance standards relating to the timeliness and accuracy of warnings are necessary and whether the Commission should impose a reporting obligation on providers of alerts.²⁰ The record in the prior proceeding and the Comments filed in this proceeding by a number of parties demonstrate that the issue of performance standards is already being addressed at least in part by other agencies and the private sector. The Commission should take into account what is already in place in considering new performance standards.

Mr. Putkovich notes that there are existing standards applicable to the NOAA System relating to message dissemination. These include standards for the processes for authentication of sources, for prioritizing the order in which warnings are disseminated and for addressing back-up systems for any system failures that might occur.²¹ In addition to these current standards, NOAA is also considering improved standards to implement a CAP and integrate "existing networks into a full mesh, digital network architecture."²² The Commission should consider how its proposals in this area relate to the standards NOAA has already established for the warnings that it disseminates, which represent over 80 percent of the warnings that are distributed through the EAS.

¹⁹ See FNPRM Comments of Putkovich at 11-12.

²⁰ FNPRM at ¶ 72.

²¹ See FNPRM Comments of Putkovich at 19.

²² *Id.*

In addition to performance standards that ensure the timeliness and accuracy of warnings, there are also existing performance standards that are intended to ensure the quality of devices that receive warnings. In 2005, CEA finalized its most recent Public Alert™ certification standard for devices that receive warnings from the NOAA System. Public Alert™ devices must meet the following requirements, among others:

- receive warnings disseminated using 48 different event codes;²³
- wake themselves up when in sleep mode to alert the public;
- include reception capabilities in Spanish and French;
- include 'Specific Area Message Encoding' (SAME) technology to enable consumers to receive only those warnings of topical interest and geographic relevance to them;
- include technology to accommodate the hearing impaired;
- comply with technical performance requirements.²²

Public Alert™ devices include, for example, televisions, cell phones, home telephones, and home security systems, in addition to the traditional NOAA weather radio. RadioShack's weather radios were among the first to receive Public Alert™ certification. Thus, for devices capable of receiving an alert from the NOAA System, an industry-created performance standard is already in place.

V. Coordination with State and Local Governments

RadioShack supports the Commission's goal of improving connectivity between the federal systems and state and local governments. However, as Mr. Putkovich states in his recent Comments, improving connectivity between federal, state and local governments through dissemination over EAS requires the support of local broadcasters

²³ There are 48 event codes currently being implemented. *See* <http://www.weather.gov/directives/sym/pd01017012curr.pdf> at A-12 to A-14.

²² *See* FNPRM Comments of John Merrell at 5-9. For additional information regarding Public Alert™, please see the FNPRM Comments of CEA and Kenneth Putkovich.

in order to be successful.²⁴ And imposing additional requirements on broadcasters may be difficult.

As RadioShack previously noted in its NPRM Comments, several steps are being taken currently to provide for state and local access to national warning systems through the NOAA system. NOAA, in consultation with DHS, has utilized funds appropriated by Congress in FY 2004 to implement a new “HazCollect” system. This technology will simplify the process by which emergency managers (EMs) disseminate alerts via the NOAA Network. It is RadioShack’s understanding that under HazCollect, an EM may compose an alert that will be securely transmitted, with authentication, to the appropriate NWS office and then disseminated either to a single NWS station, group of stations or nationwide. These alerts will be transmitted over the NOAA System directly to devices, like cell phones, NOAA weather radios and other Public Alert™ devices and to other endpoint delivery systems, including EAS.²⁵ Thus, as direct access to the NOAA System by state and local governments is improved, EAS access is equally improved.

VI. Accessibility to Persons with Disabilities and Multilanguage Functionality

The Commission seeks information on how best to provide warning information to those with disabilities, as well as to those who are non-English speakers.²⁶ These are areas that were addressed by RadioShack and other commenters in the Commission’s initial proceedings.²⁷ While the EAS system may be challenged by these goals, it is

²⁴ See FNPRM Comments of Putkovich at 20.

²⁵ *Id.*

²⁶ FNPRM at ¶¶ 74-81.

²⁷ See, e.g., NPRM Comments of RadioShack at 9; NPRM Comments of Putkovich at 10-11; NPRM Comments of CEA at 6-7. See also FNPRM Comments of Putkovich at 20-22; FNPRM Comments of CEA at 7-8.

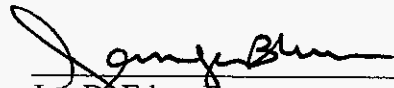
essential that the Commission acknowledge the access provided to these groups by other endpoint delivery devices.

With regard to Public Alert™ devices in particular, RadioShack and many other manufacturers make products that include connections to activate flashing lights and bed shaking devices for the hearing impaired and voice activation for the blind. All Public Alert™ devices will provide warnings in Spanish and French if programmed by the customer. Thus, although it may be difficult to adequately address the needs of the disabled through the current EAS broadcast system, the disabled do have access to warnings disseminated by NOAA over its system if they own a product that receives the NOAA warning directly.

VII. Conclusion

For the reasons set forth above, RadioShack respectfully suggests that the Commission consider carefully the information regarding the NOAA System in the Comments submitted in response to the initial NPRM and this proceeding. It is vitally important that the Commission coordinate its own efforts with those of DHS, NOAA, and state/local officials in further expanding EAS. RadioShack urges the Commission and all agencies involved to take into account the current assets and expanding capabilities of the NOAA System which serves as the backbone of the nation's warning systems.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer L. Blum", written over a horizontal line.

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